

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

STEVANNA TOWING, INC.,)

Plaintiff,)

and)

FRANK BRYAN, INC., and)
GEORGETOWN SAND & GRAVEL,)
INC., and M/V TIMOTHY JAMES,)

Intervenor Plaintiffs)

v.)

ATLANTIC SPECIALTY)
INSURANCE COMPANY,)

Defendant.)

2:19cv1463
Electronic Filing

MEMORANDUM ORDER

February 3, 2021

Plaintiff, Stevanna Towing, Inc. (“Stevanna” or “Plaintiff”), initiated this a declaratory judgment action against its insurer, Atlantic Specialty Insurance Company (“Atlantic”). The case was referred to United States Magistrate Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D. On July 8, 2016, Frank Bryan, Inc. (“Bryan”), Georgetown Sand & Gravel, Inc. (“Georgetown”), and the M/V Timothy James, were granted permission to intervene as plaintiffs in this action (collectively, “Intervenor Plaintiffs”).

Stevanna filed a Motion for Summary Judgment (ECF No. 146) seeking judgment in its favor as to Counts One and Four of the Amended Complaint. The Intervenor Plaintiffs filed a Motion for Partial Summary Judgment (ECF No. 148) seeking judgment in their favor as to Counts I and II of the Amended Complaint in Intervention. Atlantic filed a Cross Motion for

Summary Judgment (ECF No. 151) seeking judgment in its favor and against Stevanna as to Counts One and Four of Stevanna's Amended Complaint, and judgment in its favor and against Intervenor-Plaintiffs as to Counts I and II of the Amended Complaint in Intervention.

The Magistrate Judge's Report and Recommendation (ECF No. 168), filed on April 24, 2020, found that Atlantic had established as a matter of law that the M/V Timothy James was not covered under the insurance policy at issue, and recommended that the Motions for Partial Summary Judgment filed on behalf of Stevanna and the Intervenor Plaintiffs be denied and the Cross Motion for Summary Judgment filed on behalf of Atlantic be granted. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. Objections were filed by Stevanna and the Intervenor Plaintiffs on May 8, 2020, and Atlantic responded to the objections on May 26, 2020.

After the Court's review of the pleadings and documents in the case, together with the Report and Recommendation, and the objections thereto, the following Order is entered:

AND NOW, 3rd day of February, 2021,

IT IS HEREBY ORDERED that the Motions for Summary Judgment filed on behalf of Stevanna (ECF No. 146) and the Intervenor Plaintiffs (ECF No. 148) are **DENIED**. The Cross Motion for Summary Judgment (ECF No. 151) filed on behalf of Atlantic is **GRANTED**. Judgment is hereby entered in favor of Atlantic Specialty Insurance Company and against Stevanna Towing, Inc. on Counts One and Four of Stevanna's Amended Complaint, and in favor of Atlantic Specialty Insurance Company and against Frank Bryan, Inc., Georgetown Sand & Gravel, Inc., and the M/V Timothy James on Counts I and II of the Amended Complaint in Intervention.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 168) dated April 24, 2020 is hereby adopted as the Opinion of the Court.

s/ DAVID STEWART CERCONI
David Stewart Cercone
Senior United States District Judge

cc: Louis C. Long, Esquire
Leonard Fornella, Esquire
Brian D. Lipkin, Esquire
Daniel H. Wooster, Esquire
Michael B. McCauley, Esquire
Stephen M. Calder, Esquire
Dennis M. O'Bryan, Esquire

Cynthia Reed Eddy
United States Magistrate Judge

(Via CM/ECF Electronic Mail)